December 12, 2018

British Columbia Securities Commission
Alberta Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Financial and Consumer Services Commission of New Brunswick
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island
Nova Scotia Securities Commission
Securities Commission of Newfoundland and Labrador
Registrar of Securities, Northwest Territories
Registrar of Securities, Yukon Territory
Superintendent of Securities, Nunavut

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Email: comments@osc.gov.on.ca

Anne-Marie Beaudoin
Autorité des marchés financiers
Corporate Secretary
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RE: Canadian Securities Administrators ("CSA") Consultation on Proposed Amendments to National Instrument 81-105 *Mutual Fund Sales Practices* and Related Consequential Amendments

CARP is pleased to provide the Canadian Securities Administrators (CSA) with our response to its proposed amendments to Proposed Amendments to 81-105 Mutual Fund Sales Practices and related consequential amendments (the "Proposed Amendments").

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CARP is an approximately 350,000 member organization that advocates to improve the lives and uphold the rights of Canadians as we age. With our 26 chapters across the country CARP has a unique reach and an ability to give voice to the experiences of older adults in all jurisdictions of Canada. Our membership is active and engaged in our policy development, through consultation and survey mechanisms and 98% of all CARP members report that they vote in every election. In our September 2018 survey, 98% of members surveyed confirm that they intend to vote in the next federal election as well.

CARP members consistently report that they are concerned about financial security. In a 2017 survey, 75% of CARP member respondents indicated that they work with a financial advisor; however, in our September 2018 survey an overwhelming 95% of member respondents indicated that they had serious concerns about making ends meet in retirement.

Our members need professional, unbiased and transparent financial advice which is in the best interests of them as investors.

Summary of Recommendations

A. Ban Deferred Sales Charges with immediate effect.
CARP strongly opposes the use of deferred sales charges (DSCs) and encourages the CSA to ban them with immediate effect. DSCs hurts older Canadians and reduces investor returns. To the extent they once served a purpose, mutual fund companies with low investment thresholds and disruption in financial services markets have made them obsolete.

B. Ban embedded fees on DIY exchanges and retroactively refund fees collected.
CARP submits that discount brokers should not be able to charge fees for services they are legally prohibited from providing. CARP calls on the CSA to ban Do-It-Yourself (DIY) exchanges from selling funds with embedded fees with immediate effect. CARP further calls on the CSA to require DIY exchanges to retroactively refund fees embedded fees previously collected.

1. Deferred Sales Charges are Harmful and Unnecessary

a. Upfront commission results in conflicted compensation

CARP strongly opposes the use of all embedded fees including DSCs. When a DSC fund is sold, the mutual fund provider pays approximately a 5% commission to the firm making the sale. This up-front commission results in a material mismatch between services provided and fees paid, and creates a significant conflict of interest between the compensation of advisors and the interests of their clients.

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While commissions are not paid directly from the fund purchased, they are paid by the fund provider who recoups them by charging higher fees on these funds. The sizeable up-front commissions paid under the DSC model increase compensation to financial advisors while hurting the returns of investors.

b. Deferred Sales Charges Hurt Older Canadians

DSCs are a particularly poor choice for older Canadians as significant redemption penalties, payable up to seven years after purchase, deter seniors from redeeming poor performing investments, changing their asset allocations or even withdrawing funds needed for living expenses.

c. Deferred Sales Charges result in more investors netting lower returns

Research reports have indicated that funds with higher fees attract more capital[i] while providing lower net returns[ii]. In short, DSCs do the very opposite of what Canadians need in saving vehicles.

d. CARP members reject Deferred Sales Charges

CARP members have made their views on embedded fees very clear. In our 2017 Investor Protection survey, CARP members[1] were asked:

What is your overall position about embedded fees?

In all, 79% of CARP members polled supported or strongly supported banning embedded fees, 6% supported keeping embedded fees, and 16% were neutral[iii] (note numbers do not add to 100 due to rounding).

Those who are arguing that investors want or need embedded fees may believe they are arguing on investors' behalf, but that is not what investors themselves have been reporting. CARP is well-placed to directly provide the voice of the older consumer, and our members' views have been made very clear.

e. Deferred Sales Charges Give Rise to Investor Complaints

According to the 2017 Annual Report of the Ombudsman for Banking Services and Investments (OBSI), 73% of investment-related complaints are from those 50 and over, with almost 46% from those 60 and over[iv].

[1] N=1900

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OBSI's 2017 Annual Report indicates that 29% of complaints about mutual funds relate to fee disclosure[v]. OBSI's Ombudsman and CEO has indicated that the most frequent fee disclosure issue is with respect to deferred sales charges which make up over 45 percent of such cases.

While the Mutual Fund Dealers' Association (MFDA) does not publish information about the nature of complaints received, they are an important stakeholder and recipient of complaints. We respectfully submit that the CSA should request information about DSC complaints from the MFDA to better understand the magnitude of DSC issues raised by investors.

f. " Choice" provided by Products with Deferred Sales Charges is Illusory

Critics of eliminating DSCs often point to the perceived need to offer *choice* to investors. Yet this narrative of choice is a false narrative, and speaks more to the lack of financial literacy of investors than anything else. Indeed, in our respectful submission, no informed, rational investor would *choose* to invest in a fund with a 5% up-front commission and a locked in time-frame, over a 0% front-end load version. With respect this is not choice – this is exploitative of less informed, less advised consumers, to the detriment of Canadians, particularly older Canadians.

g. Concerns Regarding Advice Gap are Overstated

Critics also often express concern about the *availability* of advice (the "advice gap") should deferred sales charges be eliminated.

CARP asked its members whether they were concerned about this advice gap in the following question from our 2017 survey:

> *Eliminating embedded fees may result in clients with lower wealth (e.g. those with less than $100,000 in investments) being unable to find an advisor. This is known as the advice gap argument. Therefore, regulators should not eliminate embedded fees to ensure that these clients still have access to advisors. How strong an argument do you think this is in favour of embedded fees?*

Only 4% of members surveyed strongly supported this, and again only 13% supported it at all. CARP members overwhelmingly do not support the narrative of the *advice gap*.

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With respect to concerns about an advice gap, we also echo the comments made by the Investor Advisory Panel (IAP) of the OSC, specifically:

> *We observe that industry commentaries about the risk of an advice gap frequently overstate or oversimplify what occurred in one jurisdiction (the U.K.), while disregarding positive outcomes experienced elsewhere (Australia).*

h. Alternatives to Investments with Deferred Sales Charges are Readily Available

CARP notes that there are low-cost mutual fund providers who operate without trailer fees and do accept small portfolios. For example, Steadyhand Investments has a minimum investment requirement of $10,000 and Leith Wheeler's minimum is $25,000.

In the absence of embedded fees, some firms may choose not to offer services to clients at these investment levels. But there are firms who don't use embedded commissions who are already serving that market. Investors with as little as $10,000 to invest will not be stranded.

i. The Deferred Sales Charge Business Model is Obsolete – and Harmful

CARP respectfully asks the CSA to stop protecting or supporting a business model that is dependent on Deferred Sales Charges. Failing to ban DSCs so individuals with less than $10,000 of investable-assets have access to a traditional advisor imposes significant financial penalties on investors with more investable assets, while providing very little benefit to those below that threshold.

Investors who cannot meet the minimum requirements of low-cost, DSC-free fund providers like Steadyhand and Leith Wheeler still have the opportunity to invest using fin-tech (robo) advisors where minimums are lower. At some fin-tech companies, such as Nest Wealth and Wealthsimple, there is no minimum investment at all.

2. DIY Exchange Embedded fees are Harmful and Unethical

a. CARP Calls for Immediate Ban and Retroactive Refund

CARP submits that discount brokers should not be able to charge fees for services they are legally prohibited from providing. CARP calls for an immediate ban on the

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sale of funds with trailer fees on DIY exchanges and a retroactive refund for fees collected.

Charging for a service that cannot legally be provided is both unethical and unacceptable. This must be addressed with urgency.

Next Steps

While CARP continues to believe all embedded fees should be banned, eliminating embedded fees on DIY exchanges and DSC fees on all products is an excellent place to start.

The CSA has been consulting on investor protections for almost two decades. It's now time to act. The only question the CSA should still consider is how quickly they can implement these reforms.

CARP welcomes the opportunity to make this submission and would be pleased to comment further or meet with members of the CSA on these or other investor protection issues.

Wanda Morris, CPA	Laura Tamblyn Watts, LLB
Chief Advocacy and Engagement Officer	Chief Public Policy Officer

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[i] Funds with trailers increase (capital) flows (into the fund) regardless of performance. Trailer fees increase new flows regardless of past performance. Generally, the greater the trailer fee, the greater the level of net flows that has no relationship to past performance. For example, a 1.5% trailer fee increases the average monthly flows by 0.3% of Assets under Management each month regardless of past performance. Source: A Dissection of Mutual Fund Fees, Flows And Performance, Cumming, Douglas; Johan, Sofia; Zhang. Yelin, October 19, 2015, Page 7 Accessed at http://www.osc.gov.on.ca/documents/en/Securities-Category8/rp_20151022_81-407_dissection-mutual-fund-fees.pdf, December 7, 2018

[ii] An increase in trailers corresponds to a decrease in performance… For the full sample of all funds, the data indicate that 2.5% of funds permanently increased their trailer fees in the sample period (from an average of 0.39% to 0.78%). Comparison tests of the alphas for these funds from the 6-month prior fee change period to the 24 month post fee change period show alpha dropped by 32.4% on average. (Note that Alpha is the risk adjusted excess performance of the fund in each month.) Source: Ibid page 8

[iii] The full CARP poll on investor protections is available online: http://s3.amazonaws.com/zweb-s3.uploads/carp/2017/04/All-Questions-Survey-Results_Financial-Regulations_Q1.30March-2017.pdf, accessed December 10, 2018.

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[iv] 2017 Annual report of Ombudsman for Banking Services and Insurance, page 32. https://www.obsi.ca/Modules/News/index.aspx?feedId=c84b06b3-6ed7-4cb8-889e-49501832e911&lang=en&newsId=04f89285-891d-4861-bbfb-4670304fa8dc accessed December 12, 2018

[v] Ibid

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